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An act to alter  
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Parrish

27-2A

## AN ACT

To alter and amend an Act entitled "An Act for the Sequestration of the Estates, Property and Effects of Alien Enemies, and for Indemnity of citizens of the Confederate States, and persons aiding the same in the existing war with the United States," approved August thirtieth, one thousand eight hundred and sixty-one.

SECTION 1. *The Congress of the Confederate States of America do enact*, That all and every the lands, tenements and hereditaments, goods and chattels, rights and credits, and every right and interest therein embraced by said Act of Sequestration, of which this Act is an alteration and amendment, shall be collected and sold, as provided for in this Act, and the proceeds paid into the Treasury of the Confederate States; but in no case shall a debt, or other chose in action, be sold.

SEC. 2. *Be it further enacted*, That all money realized under this Act, and the Act to which it is an amendment, shall be applied to the equal indemnity of all persons, loyal citizens of the Confederate States, or persons aiding the same in the present war, who have suffered, or may hereafter suffer, loss or damage by confiscation, by the Government of the United States, or by any State Government, or pretended Government, acknowledging and aiding the Government of the United States in this war, or by such acts of the enemy, or other causes incident to the war, as, by future act of Congress, may be described or defined, as affording, under the circumstances, proper cases for indemnity. And all money realized as aforesaid, shall be paid into the Treasury of said Confederate States, as provided by the Act to which this is an amendment; and the faith of the Confederate States is hereby pledged that the same shall be refunded, as required for the purposes aforesaid. And the Secretary of the Treasury shall cause a separate account of said money to be kept in well bound book, procured for that purpose.

SEC. 3. *Be it further enacted*, That it shall be the duty of every person in actual possession of, or having under his control, any money, property, effects or evidences of debt, belonging to an alien enemy, speedily to inform the Receiver,

and to render an account thereof, and at once to pay over to the Receiver and to deliver to him such property and effects, and evidences of debt, and such payment and delivery shall be made without regard to whether any proceedings have or have not been instituted to sequester the same. And any person who, after giving such information, shall fail so to pay over and deliver on demand, made by the Receiver, shall stand in contempt, and the Receiver shall at once move the Court or Judge to proceed against such party as in other cases of contempt; and the Court or Judge may imprison the offender until he shall fully comply with the requirements of this Act. And such payment or delivery shall fully acquit and discharge the party from all and every claim for or on account of such money, property, effects and evidences of debt. And the Receiver shall give such person a receipt, specifying the amount of money, the property, effects and evidences of debt paid and delivered, and the name of the alien enemy on account of whom the same shall be paid and delivered. *Provided*, That when the person having the possession or control of any money of an alien enemy, asserts a debt or claim, against such alien enemy in his own favor, he may file it in writing in the proper Court, swearing that he believes himself justly entitled to the same, and thereupon he shall not be compelled, in the first instance, to pay over to the Receiver the amount thus propounded and claimed by him; but the Court shall then proceed to examine and try the validity of the said debt or claim, and decree according to the facts found, and the rights and justice of the case. And if the Court decides against the debt or claim, the party setting up the same shall forthwith pay over the sum so retained by him. And if the Court shall decree in favor of the debt or claim thus propounded, and it exceeds the entire amount originally in possession of such debtor or claimant, he shall pay no costs; otherwise he shall pay all costs incident to the proceedings.

SEC. 4. This Act, and the Act to which it is an amendment, shall not operate to avoid any payment, *bona fide* made to an alien enemy, or to affect property of any kind, *bona fide* and absolutely transferred, or conveyed, by any alien enemy to a faithful citizen of the Confederate States, prior to the thirtieth day of August, one thousand eight hundred and sixty-one.

SEC. 5. In cases of partnership property and effects, the resident partner, or partners, shall be dealt with in all res-

pects as surviving partners in cases of a dissolution of partnership by the death of one or more of the partners, according to the laws of the place of the principal place of business of the partnership; and the Receiver shall have the same remedies against such resident partners as the representatives of a deceased partner would be entitled to in like case.

SEC. 6. The following persons shall not be taken to be alien enemies under this Act, or the Act to which this is an amendment:

*First.* Persons who now have *bona fide* become permanent residents of any State of this Confederacy, and are actually residing and domiciled within the same, yielding and acknowledging allegiance thereto, and who have not, during the present war, voluntarily contributed to the cause of the enemy.

*Second.* All persons born within any State of this Confederacy, or natives of a neutral country, who since the breaking out of the war, have abandoned their domicils and ceased their business in the enemy's country, and all persons aforesaid who have *bona fide* commenced, or attempted to remove themselves and effects from the enemy's country, and who have been, and still are prevented from completing said removal by the force or power of the enemy, or who from physical infirmity are incapable of removing.

*Third.* All subjects or citizens of neutral countries who cannot be shown to have voluntarily contributed to the cause of the enemy, and all who, though citizens of the enemy's country, have abandoned that country on account of their opposition to the war, or sympathy for the people of the Confederate States.

*Fourth.* All married women natives of any State of this Confederacy who, or whose husbands shall not be shown to have voluntarily contributed to the cause of the enemy. All persons *non compos mentis*, and all minors whose fathers or mothers, were, or are, natives of this Confederacy and whose property and persons are controlled by guardians resident in the Confederate States, and who have not voluntarily contributed to the enemy's cause; and all minors under the age of sixteen years, who were born in any State of this Confederacy, or in any State exempted from the operations of this Act while their parents were domiciled in such State and who have not taken up arms against the Confederate States.



*Fifth.* Free persons of color, who, by the laws of any State have been compelled to remove beyond the limits thereof, and are by law prohibited from returning to such State, and who have not in anywise aided the enemy.

SEC. 7. The next of kin in the direct ascending and descending lines of any alien enemy, faithful citizens of any of the Confederate States, or engaged in their military or naval service shall be entitled to have decreed them (they paying all costs) the property, effects and credits of such alien enemy as if dead, intestate, leaving no other heirs or distributees, chargeable, however, in their hands, as in case of administration or heirship, with the debts of such alien enemies due to faithful citizens of any Confederate State.

SEC. 8. All sales of property under this Act shall be made by the Receivers at public auction to the highest bidder and on such terms and such notice of the time and place of sale as the Court may prescribe, and shall be duly reported to the Court by such Receivers at the term next after such sale; but no conveyance of title shall be made to the purchaser of the property until the confirmation of the sale by the Court and the payment of the purchase money according to the terms of the sale; and no sale shall be valid until reported to, and confirmed by the Court; nor shall any sale be confirmed until the terms shall have been complied with; and the Court may set aside such sale for fraud, want of proper notice, or any material irregularity, or where it shall appear that the Receiver was the purchaser or interested in the purchase, or for substantial inadequacy of price: *Provided, however,* That sales of personalty may be reported to, and confirmed by the Judge in vacation.

SEC. 9. The Court may, in its discretion, when special circumstances exist which temporarily depress the value of the property, delay the order of sale, or may direct the Receiver to examine and report whether it would be expedient to make an immediate sale of such property, and on such report, or other satisfactory evidence, showing that a delay in the sale would tend to secure a fairer price, may order such sale to be delayed, and in all such cases the Court may, in the case of real estate, or of a plantation and slaves, order the Receiver to lease the same on such terms as the Court may prescribe.

SEC. 10. In cases where an alien enemy may have contracted in writing, before the twenty-first day of May, eighteen hundred and sixty-one, to sell real estate to a citizen,

or citizens, of this Confederacy, and to make title upon payment of the purchase money, the Court, in decreeing sequestration of the said purchase money, or the residue thereof unpaid, shall further decree that the receiver of the district, in which said real estate is situate, shall, upon payment of said purchase money, or the residue thereof, as aforesaid, make title for such real estate to the purchaser or his assignee.

SEC. 11. The Court shall audit and pass on the accounts of the receiver as provided in this Act, and the one to which this is an amendment: but in lieu of the compensation and allowances therein provided for, shall allow such compensation as shall to it seem reasonable and just, following, in this respect, so far as may be applicable, the analogies furnished by the laws of the State in which the Court is held, concerning compensation to executors, administrators and trustees; and the Court shall further allow to the receiver all proper expenses attending the execution of his office. And all fees and allowances passed by the Court in favor of any receiver may be retained by him from any money in his hands; and all fees and allowances to any receiver beyond the rate of five thousand dollars per annum, except for expenses as aforesaid, shall be forthwith paid by him into the Confederate Treasury, to the use of the Confederate States, and shall be brought into, and stated and accounted for, in his next account of settlement as Receiver.

SEC. 12. The Court shall appoint an attorney for each section in which the Court shall be holden, and in which no attorney of the Confederate States resides, whose duties it shall be to discharge, within said section, the duties imposed on the attorney of the district by the Act to which this is amendatory; and the compensation of such attorney so appointed shall be the same for business by him done as is now provided by ninth section of said Act for the district attorney.

SEC. 13. The Receiver shall, in all cases, take the possession and control of the money, property and effects of alien enemies, and of such choses in action as shall be in the hands of any agent or third person, except when otherwise provided by this Act, and, on being refused possession, shall sue for the same, and such possession shall not be withheld on any pretext of any provisions of the Act to which this is amendatory. The Court may order a delay in the sale of property when it shall be necessary to complete or gather a

growing crop, or when it shall be otherwise manifestly to the benefit of the Confederate States to delay the sale; but in all such cases the possession, control and management shall be with the Receiver, or under his control and authority. And in the collection of debts or choses in action, no State stay law shall govern, but the same shall be governed by this Act, and the one to which this is an amendment, so far as the latter does not conflict with this Act.

SEC. 14. It shall be the duty of all persons owing debts to alien enemies, within three months from the passage of this Act, to give information thereof to the Receiver of the district in which he or they reside, and in case of corporations or joint stock companies, to the Receiver of the district in which the principal office of business of such corporation or company may be; and such information shall be in writing and sworn to by the debtor, and in case of corporations or joint stock companies, by the principal officer of such corporation or company, before any Judge of a Court of record, justice of the peace, notary public, commissioner of the Court or Receiver under the Act to which this is an amendment, and shall set forth the name or names of the creditor or owner of such debt, the amount he owes or owed on the thirtieth day of August, eighteen hundred and sixty one, and whether the same is, or has been, secured by mortgage or otherwise; and the information or confession so made shall be filed by the Receiver in the proper Court of the Confederate States, and such Court shall, on such information, proceed to decree sequestration and payment of the debt or debts so confessed; and in case any debtor shall, in good faith, confess his indebtedness as aforesaid, but shall be unable to state the true amount of his indebtedness, or shall be in doubt whether the creditor or owner of the debt is an alien enemy, the Court shall proceed to ascertain the character of the creditor or owner, and the true amount of such indebtedness, and to that end shall direct such proceedings as shall be adapted to the nature of the case, and decree according to the facts found. And in all proceedings against persons for debts due by them to alien enemies, the debtor shall be allowed to make any defence, in law or equity, which he might or could have made in a suit brought against him by the creditor to whom such debt was due: *Provided, however,* That no execution shall issue on such decree, except for the interest which shall accrue on the same at the end of each year, until twelve months after peace shall be declared



between the Confederate States and the United States, or until otherwise directed by law: *And provided, moreover,* That execution may issue for the costs of the proceeding, and the sum so collected for costs shall be deducted from the principal sum due.

SEC. 15. The Receivers appointed under this Act, or the Act to which this is an amendment, shall proceed diligently to ascertain and collect the debts due to alien enemies by persons residing in the districts for which they are severally appointed, and shall, on the discovery of any such debts, and after the expiration of three months from the passage of this Act, and the debtor shall have failed to give information of such debt, proceed to institute proceedings to sequester the same, and in such proceeding, which shall be by petition, as prescribed by said Act, to which this is an amendment, and shall be to sequester the debt, as well as to ascertain the sum due by the debtor, such debtor shall be made defendant or respondent, as the case may be, and the process to bring such debtor before the Court, or to compel an answer, shall be in the nature of the writ of garnishment as prescribed in said Act, which shall be served on such debtor; and in case of corporations and joint stock companies, on some member or officer of such corporation or company; and shall require the defendant to answer on oath whether he is indebted to any alien enemy, or was so indebted on the thirtieth day of August, eighteen hundred and sixty-one, in what sum, and whether he knows of any other person or persons so indebted, and, on the disclosure by the defendant of such indebtedness by other persons, like proceedings shall be had as in the original cause; and in case the defendant shall suggest in his answer that the debt due by him or her is claimed or owned by any person not an alien enemy, setting forth the name of such claimant, his place of abode, citation shall issue to such claimant to appear and propound his claim on oath at the succeeding term of the Court; and in case he is absent from the district in which the Court is held, or cannot be found, publication shall be made for the space of one month in some newspaper best calculated to apprise such claimant to appear and propound his claim; and if such claimant shall fail to appear, his claim shall be barred. On the appearance of the claimant, the Court shall direct an issue to try the same, and shall award the costs against the claimant if the claim be unfounded: *Provided,* That the entire answer shall be considered by the Court.



SEC. 16. All proceedings now pending under the Act to which this Act is an amendment, shall be made to conform to the proceedings directed in this Act, so far as practicable, and the judgments rendered therein shall be given in all respects, and have the same operation and effect as judgments rendered under the fourteenth section of this Act.

SEC. 17. In all proceedings against debtors who fail or refuse to give information of their indebtedness within the time prescribed in this Act, and the debtor shall be brought before the Court by process, the costs of the proceeding shall be adjudged against such debtor, in case he is found to be indebted to any alien enemy; and if it shall appear to the Court, on the trial of any cause against such recusant debtor, that he has wrongly and wilfully refused or failed to give information of his indebtedness, or to state the true amount thereof, with intent to hinder, evade or delay the execution of this Act, or the Act to which this is an amendment, or the jury, in any cause or issue tried by them, shall certify that such debtor has wilfully failed or refused to give information of his indebtedness, or the true amount thereof, with the intent aforesaid, the Court shall award execution against such debtor on the decree or judgment for the whole amount of the debt and the interest due thereon, together with the costs; in all other cases, however, execution shall be stayed until the peace aforesaid, except for interest which shall accrue.

SEC. 18. In cases where proceedings shall be instituted to sequester judgments or decrees already rendered, or of claims or debts upon which actions or suits may be pending, the Court may, after the decree of sequestration, allow the Receiver to prosecute such suit, action, decree or judgment, in the name of the Confederate States of America; and in cases of suits or actions pending, or decrees or judgments rendered in the State Courts, where, by the laws of such State, it may be admissible, such Receiver may introduce the Confederate States of America in the proceedings as a party to prosecute such suit or action, or enforce such decree or judgment; but in such cases execution shall issue for costs and interest only until further provided by law, or twelve months after the conclusion of peace as aforesaid.

SEC. 19. Attorneys, agents or trustees of any alien enemy having claims for fees or commission on the fund or assets in their hands, shall, on delivery of such fund or assets to the Receiver, make out their accounts for such claims or

commissions, and the Court shall consider and allow the same, if just and reasonable, to be paid out of such funds or assets; and where counsel are already engaged in prosecuting such pending suits or actions, the Receiver shall be authorized to allow them to continue to prosecute such suits or actions for the Confederate States of America.

SEC. 20. The rate of interest to be paid by debtors shall be regulated by the contract, if by the terms thereof the rate of interest shall be fixed, and if no interest shall be fixed by the contract, then the rate shall be according to the law of the place where the debt is to be paid or the contract performed; and the judgment or decree shall bear the same rate of interest fixed by law or the contract, and the same shall be punctually paid at the end of each year, or execution shall issue for the same.

SEC. 21. In no case shall the judgment or decree be a lien on the property of the debtor; but where the Court shall award execution under this Act, the property of the debtor shall be bound, from the delivery of the writ.

SEC. 22. The Court, or Judge in vacation, shall have power to award execution on any judgment or decree, in addition to the cases of recusant debtors, where the Receiver shall make oath that the debtor is fraudulently concealing or disposing of his effects, with intent to evade the judgment, or is about to remove his effects beyond the jurisdiction of the Court, but such execution shall be discharged on the defendant's giving security to the satisfaction of the Court, for the performance or payment of the decree.

SEC. 23. In proceedings under this Act, and the Act of which it is amendatory, upon affidavit being made by the Attorney representing the Confederate States, or the proper Receiver, that the name of an alien enemy is wholly or partly unknown to him, or that the names of the members of a partnership of alien enemies are unknown to him, the process and proceedings may be against such partnership by the firm name thereof, stated in such affidavit, or against such alien enemy, whose name is wholly or partly unknown, by such name or proper description as may be known and set forth in such affidavit: *Provided*, That the Court may, at any time, on motion, cause the full and proper name to be inserted in the record, and used in the proceedings when the same become known to the Court.

SEC. 24. Receivers shall have authority to administer

oaths touching any matter incident to proceedings under this Act.

SEC. 25. The sixteenth section of the Act to which this is an amendment, is hereby repealed.

SEC. 26. All debts due to any alien enemy may be paid in the Bonds and Treasury Notes of the Confederate States, and the same shall be received in payment for all property sold under this Act.

SEC. 27. The fees of all Clerks and Marshals shall be the same for services under this Act and the Act to which this is an amendment, as are allowed for similar services in the Courts of the Confederate States, and shall be a charge upon the general fund derived from confiscations, and shall be paid on the order of the Court.

SEC. 28. The Commissioners authorized by the fourteenth section of the Act to which this is an amendment, shall appoint a Clerk with a salary of fifteen hundred dollars, to be paid out of the Treasury of the Confederate States; but such salary, as well as the salary of said Commissioners, shall be charged to the confiscation fund and be deducted therefrom; and said Commissioners shall moreover have power to appoint Commissioners to take the examination of witnesses touching the claims which may be propounded before them, or may summon witnesses before them to be examined orally; said Commissioners, and the Commissioners appointed by them to examine witnesses as aforesaid, shall have power to administer oaths to the witnesses and to issue subpoenas, and witnesses failing to appear shall be subject to like penalties and process as may be prescribed in the Courts of the Confederate States against defaulting witnesses: *Provided, however,* That the costs of all proceedings to take testimony shall be paid by the claimant, except in cases where the Attorney General shall apply for leave to take testimony, and the fees of witnesses and Commissioners shall be the same as are allowed in the Courts of the Confederate States in like cases.

SEC. 29. So much of the Act to which this is an amendment as requires the Receivers to settle separately the estate of each alien enemy, is repealed, and hereafter each settlement shall embrace all the matters ready for settlement; but the items of the account shall be so specific as to show the sources from which each is derived.

SEC. 30. Where any judgment has been entered up in any of the Courts of the Confederate States under the Act to



which this is an amendment, inconsistent with the provisions and spirit of this Act, the same, on motion, shall be set aside or amended in accordance with the terms and provisions of this Act.

SEC. 31. The provisions of the Act to which this Act is an amendment, so far as the same may conflict with this Act, are hereby repealed.



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